



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,418	10/22/2003	Yixing Lin	008716 USA/CPS/IBSS/LAP	6173
61285 7590 02/19/2008 JANAH & ASSOCIATES, P.C. 650 DELANCEY STREET, SUITE 106 SAN FRANCISCO, CA 94107				
EXAMINER MILLER, DANIEL H				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
02/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/691,418

**Applicant(s)**

LIN ET AL.

**Examiner**

DANIEL MILLER

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-20, 23, 24 and 26-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20, 23, 24 and 26-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 18-20, 23-24, 26-37 are rejected under 35 U.S.C. 102(a) as being anticipated by Lin et al (US 2003/0185965A1).

It is noted that the examined claims are product-by-process claims; the examiner has interpreted these claims as directed to the article that is the final product of the process. It is noted that the intermetallic compound is removed during applicant's claimed product by process and is therefore not present in the final product (see applicant's claim 18 (ii)).

"[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.", (In re Thorpe, 227 USPQ 964,966). Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art,

Art Unit: 1794

although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product (In re Marosi, 710 F.2d 798, 802, 218 USPQ 289, 292 (Fed. Cir. 1983), MPEP 2113).

Lin teaches a substrate processing chamber component comprising: (a) a structure shaped to be a chamber enclosure wall, gas shield, cover ring or deposition ring, the structure made from stainless steel, aluminum, titanium, copper, copper alloy, quartz or aluminum oxide; and (b) a textured coating on the structure, textured coating: (i) made from aluminum, silicon, aluminum oxide, boron carbide or titanium oxide, and (ii) consisting essentially of substantially flower shaped surface grains that are sized from about 0.1 to about 5 micron (claim 20 Lin).

Given that the structure of the disclosed art and the claimed invention are substantially similar with both having substantially similar surface roughness (see table 1 Lin) and thickness [0052] with substantially similar deposition techniques [0051] they would be expected to have like physical characteristics, as claimed by applicant. No patentable distinction is seen.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1794

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-20, 23-24, 26-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 2003/0026917A1) in view of Garg (US 5,009,966).

It is noted that the claims examined are product by process claims where the examiner has interpreted the claims as pertaining to the article that is the final product of the process. The intermetallic compound is removed during applicant's claimed product by process and is therefore not present in the final product (see applicant's claim 18 (ii)).

"[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.", (In re Thorpe, 227 USPQ 964,966). Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product (In re Marosi, 710 F.2d 798, 802, 218 USPQ 289, 292 (Fed. Cir. 1983), MPEP 2113).

Lin teaches a plasma-processing chamber including walls [0002]. The surface is bead blasted to create surface roughness [0040], creating enhanced bonding of a top metal

Art Unit: 1794

layer. The surface roughness is within applicant's claimed range [0040 page 5]. The underlying structure can be aluminum and the coating can comprise titanium (claim 5 reference).

The coating can be a twin wire arc spray coated layer (see [0043-0046]). The titanium comprising coating can be textured as well (see [0050] and figure 3).

Given that the structure of the disclosed art and the claimed invention are substantially similar and both undergo a bead blasting to a substantially similar surface roughness they would be expected to have like physical characteristics, as claimed by applicant.

Lin, discussed above, is silent as to the base material being titanium. However, in the only disclosed embodiment, Lin teaches, the gas shield 150 is made of aluminum coated with a thin layer of aluminum oxide [23]. Which is a metal base material (aluminum) with a like metal (aluminum) oxide coating. Since Lin also teach the chamber components can have a titanium oxide coating (claim 5 Lin).

5. Garg teaches a titanium or titanium alloy substrate a hard metal coating to protect against oxidation (abstract) similar to the functionality of the Lin coating. The layers would be capable of refurbishment as claimed by applicant.

1. It would have been obvious to use the titanium base material as taught by Garg as the substrate material for Lin because of its inherent wear resistance valuable in applications of chamber construction and to provide a like base metal material with like oxide as taught to be preferred by Lin. Further, the like metals found in the base and oxide coating necessarily aids in adhesion of the oxide coating in high temperature environments (such as a chamber component).

***Response to Arguments***

2. Applicant's arguments filed 8/6/2007 have been fully considered but they are not persuasive.
3. The rejection over Wang has been withdrawn due to the affidavit submitted by applicant.
4. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
5. It would have been obvious to use the titanium base material as taught by Garg as the substrate material for Lin because of its inherent wear resistance valuable in applications of chamber construction and to provide a like base metal material with like oxide as taught to be preferred by Lin. Further, the like metals found in the base and oxide coating necessarily aids in adhesion of the oxide coating in high temperature environments (such as a chamber component).
6. Rejection maintained.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL MILLER whose telephone number is (571)272-1534. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571)272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel Miller

/KEITH D. HENDRICKS/  
Supervisory Patent Examiner, Art Unit 1761